

FILED

June 12, 1989
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

EFFECTIVE

June 1, 1989
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY
DIVISION OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS
DOCKET NO.

IN THE MATTER OF THE SUSPENSION
OR REVOCATION OF THE LICENSE OF

JAMES G. ATIEH, D.C.

TO PRACTICE CHIROPRACTIC
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened before the New Jersey State Board of Medical Examiners (the "Board") upon the filing of a Complaint by the Attorney General of New Jersey, by Steven N. Flanzman, Deputy Attorney General against respondent James G. Atieh (a copy of the Complaint is appended hereto as Exhibit "A"). The four count Complaint generally charged that respondent grossly and flagrantly overstated the number of spinal adjustments performed upon patient S.H. in Attending Physician Reports submitted to State Farm Insurance Company ("State Farm") from October 6, 1982 through January 19, 1983. The Attorney General charged that Dr. Atieh submitted Attending Physician Reports to State Farm knowing that the representations therein as to the number of patient visits were false and with the intent that State Farm rely thereon, and that State Farm remitted payment in reliance upon Dr. Atieh's

representations for services which Dr. Atieh did not perform. The complainant additionally charged Dr. Atieh with preparing Patient Progress Notes which grossly and flagrantly overstated the actual number of spinal adjustments performed by respondent upon S.H. and which included notations for treatments on dates when Dr. Atieh did not in fact see S.H. Finally, the Complaint charged that Dr. Atieh's notes were not prepared at a time contemporaneous to S.H.'s visits, but rather that the notes were prepared at some time significantly subsequent to the termination of respondent's treatment of S.H.

Count I of the Attorney General's Complaint charged that respondent's presentation of Attending Physician Reports for payment by State Farm and receipt of payment for services which respondent did not perform constituted violations of N.J.A.C. 13:35-6.4(5), actionable pursuant to N.J.S.A. 45:1-21(h), and of N.J.S.A. 45:1-21(e) (professional or occupational misconduct); Count II charged that respondent's above delineated conduct constituted the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense in violation of N.J.S.A. 45:1-21(b); Count III charged that respondent's preparation of fraudulent Patient Progress Notes constituted a separate violation of N.J.S.A. 45:1-21(b); and Count IV charged that respondent's failure to prepare notes on Hancock's treatment at the time said treatment was rendered, and his subsequent falsification

of said notes and submission of falsified notes to the Board of Medical Examiners constituted violations of N.J.A.C. 13:35-6.5(a) actionable pursuant to N.J.S.A. 45:1-21(h), and constituted grounds for disciplinary sanction pursuant to N.J.S.A. 45:1-21(e).

Respondent initially entered a denial of the substantive charges within the Attorney General's Complaint, and thereupon the matter was transferred to the Office of Administrative Law for a formal hearing upon the Attorney General's charges. In entering into this Consent Order, respondent now retracts his former denials and specifically admits each and every allegation within the Administrative Complaint and pleads guilty to each and every statutory charge delineated within the Administrative Complaint.

The Board sharply condemns respondent's fraudulent conduct. The submission of false bills for services which were never performed to an insurance company, and collection of funds thereupon, is an act of fraud which directly harms not only the targeted insurance company, but also ultimately impacts upon the cost of medical services and medical insurance to all consumers. The Board additionally finds that respondent's wrongdoing was compounded by his preparation of fraudulent patient records. Accurate patient records are a cornerstone of good medical practice. Respondent's fabrication of S.H.'s records, purely to support the fraudulent bills he had previously submitted to State Farm, is an act of

fraud which the Board finds not only could have posed grave dangers to patient S.H. had such records been relied upon by subsequent treating practitioners, but also was itself a serious act which only aggravated respondent's misdeeds.

Notwithstanding the gravity of the offenses charged, the Board is mindful of certain mitigating factors. The allegations in this case concern only one patient and the total amount received by Dr. Atieh from State Farm was \$590 (some portion of which was, even given Dr. Atieh's conduct, earned and rightfully payable to respondent). The conduct at issue had its genesis in late 1982 and there is no evidence at this time before the Board that such conduct was repeated by Dr. Atieh.

The parties being desirous of settling this matter without further formal proceedings, and it appearing that respondent has read the terms of the within Order and understands their meaning and effect and consents to be bound by same, and it further appearing that respondent, through entering this Order, admits his guilt in this matter and further specifically assures the Board that said conduct was an isolated aberration and was conduct that has not and will not be repeated, and it further appearing that the Board finds that the within Order is adequately protective of the public interest, and it therefore appearing that good cause exists for the entry of the within Order;

IT IS on this 31st day of May 1989,

ORDERED:

1. Respondent's license to practice chiropractic in the State of New Jersey is hereby suspended for a period of one year. The first three months of said suspension shall be served as an active period of suspension, and the remainder shall be stayed and served as a period of probation. Said active suspension shall commence June 1, 1989 and terminate on August 31, 1989. During the three month period of active suspension, respondent shall comply with all terms and conditions within the appended "Directive Regarding Future Activities of Medical Licensee who has been Disciplined."

2. Respondent shall pay a civil penalty of \$2,500, due and payable in installments to the Board within 6 months of the entry of this Order.

3. Respondent shall pay all investigative costs incurred in this matter, in the amount of \$1,650.75. Payment of said costs shall be made directly to the Board in installments within 6 months of the entry of this Order.

4. Respondent shall make restitution to State Farm Insurance Company in the amount of \$480. Said sum shall be paid by forwarding a check or money order made payable to "State Farm Insurance Company" directly to the Board offices within (10) ten days of the entry of this Order. The Board shall thereafter directly forward said funds to State Farm.

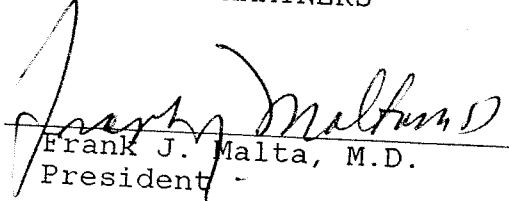
5. Respondent is directed to cease and desist from engaging in any conduct similar to that which respondent has admitted engaging in within this Order, specifically including but not limited to submitting bills or collecting monies for services not actually rendered and/or preparing either any records not based upon actual patient visits or records which in any other manner are purposefully inaccurate or untruthful, and respondent is further directed to cease and desist from violating any of the statutes and/or regulations governing the practice of chiropractic in New Jersey.

6. In the event the Attorney General shall receive evidence that respondent has engaged or is engaging in any conduct similar in nature to that which respondent has admitted engaging in within this Order, specifically including but not limited to submitting bills or collecting monies for services not actually rendered and/or preparing either any records not based upon actual patient visits or records which in any other manner are purposefully inaccurate or untruthful, then respondent hereby agrees that the Attorney General may move before the Board, on three days notice to respondent, either for reactivation of the stayed portion of respondent's suspension or for temporary suspension of respondent's license. Respondent further expressly agrees that in such event, evidence that respondent has engaged or is engaging in the above delineated conduct shall be evidence sufficient to warrant

either reactivation of the stayed portion of the one year suspension or temporary suspension of licensure pending a plenary hearing.

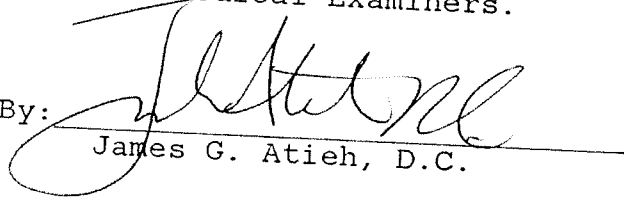
NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By:



Frank J. Malta, M.D.
President

I have read the within Consent Order and I understand and agree to be bound by its terms. I consent to its entry by the State Board of Medical Examiners.

By:


James G. Atieh, D.C.

I consent to the form, content and entry of the within Consent Order.


Gerald Miller, Esq.